Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A.NO. 118 / 2006 CG

Division Bench

Appellants :

1. Pyara Singh S/o Badawa Singh, Aged about 70 years

2. Bachhan Kaur W/o Pyara Singh, Aged about 65 years,

3. Ranjodh Singh W/o Pyara Singh, Aged about 23 years,

All R/o Village Maisumpur Kurd, Tehsil – Bababakala, P.S. Meta Chowk, Dist : Amritsar (Punjab)-143 114

Versus

Respondents :

1. Anand Kumar S/o Shri Brij Bhushan Pandey, Aged about 34 years, R/o Bajrang Chowk Near Shukla Timber Chowki Kumhari, P.S. Purani Bhilai, Dist : Durg-(C.G.)
(Driver of the offending Vehicle C.G.04ZC1394)

2. Smt. Kamla Devi Shukla, W/o Shri Badrinarayan Shukla, Aged about 50 years, R/o Ganjbastal, Raipur-(C.G.) Presently residing at Kumhari, Tehsil – Damdha, Dist : Durg-(C.G.)

(Owner of the offending Vehicle C.G.04ZC1394)

3. Branch Manager
The Oriental Insurance Company Ltd., 16, R.S.S. Market, Bhilai Power House, Tehsil & Dist : Durg-(C.G.)-490001

P.R. No. 186/06
Presented by Shri ... Advocate
dated 3/7/06

MISC. APPEAL U/S 173 OF THE MOTOR VEHICLES ACT.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	M.A. NO. 118 OF 2006	
	APPELLANTS 1.	Pyara Singh S/o. Badawa Singh, Aged about 70 years.
	2.	Bachhan Kaur, W/o. Pyara Singh, Aged about 65 years.
	3.	Ranjodh Singh S/o. Pyara Singh, Aged about 23 years All R/o. Village Maisumpur Kurd, Tehsil Bababakala, P.S. Meta Chowk, Dist. Amritsar (Punjab) 143 114
	Vs.	
	RESPONDENTS 1.	Anand Kumar S/o. Shri Brij Bhushan Pandey, Aged about 34 years, R/o. Bajrang Chowk, Near Shukla Timber Chowki, Kumhari, P.S. Purani Bhilai, Distt. Durg-C.G. (Driver of the offending Vehicle C.G.-04ZC1394)
	2.	Smt. Kamla Devi Shukla, W/o. Shri Badrinarayan Shukla, Aged about 50 years, R/o. Ganjbastal, Raipur –CG Presently residing at Kumhari, Tehsil-Damdha, District Durg CG (Owner of the offending Vehicle C.G. 04ZC1394)
	3.	Branch Manager, The Oriental Insurance Company Ltd., 16, R.S.S. Market, Bhilai Power House, Tehsil & Distt. Durg (C.G.)490 001

GRPRJ — FS/246— 2/2007 — 50,000.

20

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Present :

Shri H.P.Agrawal, counsel for the appellants.

Shri Vinay Harit, Dy.A.G. with Shri Ravindra Agrawal, P.L. for the State.

Hon'ble Shri Dhirendra Mishra, J.

21.06.2007

Heard on M.C.P. No. 1516/2006 application for condonation of delay in filing the appeal as the same has been filed with a delay of 28 days.

For the reasons indicated in the application and further considering that there is a delay of 28 days in filing the appeal, the same is allowed. The delay in filing the appeal is condoned.

Heard on admission.

The appellants/claimants have preferred this appeal against the award dated 9th of December 2005 passed in Claim Case No. 379/2005 by learned 10th Additional Motor Accident Claims Tribunal (FTC) Durg whereby a sum of Rs. 3,51,000/- has been awarded to the claimants as compensation towards the death of their son namely Sarvinder @ Sarinder Singh aged 27 years who died on 28.05.2004 as a result of collusion between a truck bearing registration No. CG 04 ZC/1394 and trailer bearing registration No. MH 04 P/2879 while he was driver of the trailer.

The only ground urged by learned counsel for the appellants is that the deceased was working as a driver of the trailer and was drawing a salary of Rs. 6,000/- per month and daily allowance of

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Rs. 60/- per day. However, while assessing the annual income of the deceased, the tribunal has not considered the daily allowance paid to the deceased by the owner of the trailer. It is submitted that Satnam Singh owner of the trailer had been examined by the claimants as P.W.-3 who has stated that Sarvinder Singh @ Sarinder Singh was his driver and he was paying him salary at Rs. 6,000/- and was also paying Rs. 60/- daily.

I have heard learned counsel for the parties.

I have perused the impugned award. The tribunal considering the fact that the said witness had not produced any document to show that he was the owner of the said trailer and further that no documents regarding appointment of the deceased regarding payment of monthly wages etc. was produced by the owner of the vehicle, has not accepted the claim of the claimants considering that he was getting daily allowance as Rs.60/-.

Taking into consideration that the tribunal has accepted the evidence with respect to the monthly wages at Rs. 6,000/- and further considering that a sum of Rs. 3,51,000/- has been awarded to the claimants who are father and mother and who are aged 70 & 65 years respectively I am of the opinion that just compensation has been paid.

In the result the appeal being devoid of merits is liable to be dismissed and it is hereby dismissed at the admission stage itself.

Sd/-
Dhirendra Mishra
Judge